

# **EXHIBIT A**

## **PART 1**

# No Irreparable Harm

- No presumption – irreparable harm must be proven
- TruePosition repeatedly expressed its willingness to license the '144 patent
- TruePosition urged ETSI to standardize UTDOA on the SDCCH in an open standard
- TruePosition engaged Andrew to jointly standardize UTDOA because multiple vendors were required
- TruePosition knew ETSI required FRAND licensing for standardized technology
- The '144 patent is now required to implement UTDOA using the SDCCH as standardized by ETSI under TruePosition's interpretation

December 29, 2000

Allen Telecom Inc.  
Grayson Wireless Division  
2002 Edmund Halley Drive, 3<sup>rd</sup> Floor  
Reston, VA 20191  
Attention: Joe Kennedy, Manager

Dear Mr. Kennedy:

\* \* \*

Accordingly, we ask that you kindly investigate whether Grayson's Geometrix location system employs TruePosition's patented TDOA and AOA processing methods and systems. If you would like to inquire about a license or need further information, please contact me directly.

PTX 7 at A31-32

Q. At the time of this letter, was TruePosition willing to license the '144 patent to Andrew?

A. Yes, we were. It's actually -- it's in the second paragraph. Actually -- yeah. The page before.

Q. Is that the '144 patent that's mentioned?

A. Yes.

Beckley, Tr. 499, ln 8-13 (A363)

3GPP TSG GERAN #9

GP-020525

Seattle, Washington, USA

15-19 April 2002

Agenda Item 6.1, 7.1.5.6, 7.2.5.4

Title: U-TDOA in GSM and GPRS Feasibility Study

Source: TruePosition

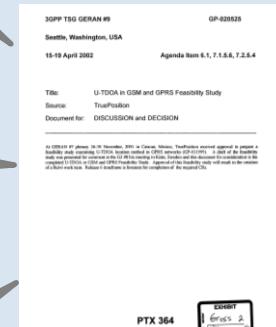
PTX 364 at 1

## Classic GSM

\* \* \*

As an alternative, the energy associated with call setup signaling activity on the SDCCH can be used to locate an idle MS. In this case the BSC must page the target mobile, proceed with normal call setup activity (authentication, ciphering and possible MS interrogation) and release the SDCCH after one to two (1-2) seconds based on the desired location QoS. The BSC must inform the SMLC of the assigned SDCCH prior to initiating the SDCCH assignment on the Access Grant channel.

PTX 364 at 3-2



## **3.3.5. Intellectual Property Considerations**

TruePosition, Incorporated may hold one or more patents or copyrights that cover information contained in this document. A license will be made available to applicants under reasonable terms and conditions that are demonstrably free of any unfair discrimination.

PTX 364 at 3-5

Q. And back at the time of this feasibility study, it was TruePosition's belief that the '144 patent covered locating phones using the SDCCH; right? At the very time of this study?

A. Yes, that's correct.

Rob Anderson, Tr. 433:25-434:4

Q. Right. And you agree, don't you, that this is, in fact, a general statement, and would apply to any of TruePosition's patents that it had at the time of this document; right?

A. Yes.

Q. And that would include the patent in this case, the '144; right?

A. That's correct.

Rob Anderson, Tr. 434:17-24

**From:** Beckley, Fred  
**Sent:** Wednesday, November 06, 2002 10:22 AM  
**To:** Patrick D. McPherson (E-mail); Laura Meagher (E-mail)  
**Cc:** Glenn J. Blumstein (E-mail)  
**Subject:** TruePosition Patents

Following our conversation yesterday, listed below are the patents that we anticipate the license would cover. As I mentioned, we would be happy to provide you with copies of any or all of these.

- 4,728,959 - Direction Finding Localization (3/1/1988)
- 5,327,144 - Cellular Telephone Location System (7/5/1994)
- 5,608,410 - System for locating a source of bursty transmissions cross reference to related applications (3/4/1997)

\* \* \*

**Frederic Beckley**  
**Vice President & General Counsel**  
**TruePosition, Inc.**  
**780 Fifth Avenue**  
**King of Prussia, PA 19406**  
**Phone: 610-680-1073**  
**Fax: 610-680-1074**

PTX 8 at 1

## Email to AT&T Wireless

**From:** Robinson, Rhys <rrobinson@trueposition.com>  
**Sent:** Thursday, November 7, 2002 11:56 AM  
**To:** jeff.leblanc@attws.com  
**Cc:** Sheehan, Joe <jsheehan@trueposition.com>  
**Subject:** No Essential IPR in TruePosition's U-TDOA proposal  
**Attach:** Robinson, Rhys.vcf; ETSI AssocMemAgmt.doc; ETSI IPR Policy.doc

Jeff,

As discussed during yesterday's conference call, attached are several files which show TruePosition's ETSI status and ETSI's IPR policy. Together these files show that as ETSI Associate Members, we are bound by ETSI's IPR Policy.

If you would like additional information or have further questions or comments, please let me know.

Thanks,

-Rhys

DTX 47 at 1

Q. Well, it's fair to say, isn't it, that you were trying -- you, TruePosition, was trying to give AT&T Wireless comfort that TruePosition's patents were not going to be blocking to the standard; right?

A. Yes. I think that was the case.

Joe Sheehan, Tr. 264:14-18

# TruePosition Urged ETSI To Standardize UTDOA On The SDCCH

**From:** Sheehan, Joe  
**Sent:** Monday, April 01, 2002 9:32 PM  
**To:** Pavane, Roger  
**Cc:** Robinson, Rhys; Donaghy, Kevin  
**Subject:** RE: Points regarding Cingular's support for 3GPP standards

DTX 902 at 1

We currently have a feasibility study open against Release 5 LCS, the purpose of which is to demonstrate that U-TDOA is a feasible and necessary positioning technique for GSM and GERAN (GPRS). We are planning on presenting this feasibility study at the GERAN#9 meeting in Seattle the week of April 15. If we are successful in demonstrating support for our feasibility study a work item will be opened against the next version of the standard (Release 6), which will allow us to submit the necessary change requests against Specification 23.271 at the next meeting in June (GERAN#10?). After we submit the change requests in June they will be reviewed and hopefully approved at the following meeting in September (GERAN#11?). At which time there will be support for U-TDOA in GSM and GERAN (GPRS) LCS. If we fail to get support for our feasibility study in time for the April 15 meeting we may lose any chance of getting support for U-TDOA into GSM and GERAN (GPRS) LCS.

DTX 902 at 2



DTX 902

# TruePosition Needed Andrew's Support To Standardize UTDOA On The SDCCH

Case 1:05-cv-00747-SLR

Document 371-2

Filed 03/14/2008

Page 9 of 21

December 3, 2001

To: Rob Anderson

From: Bob Gross

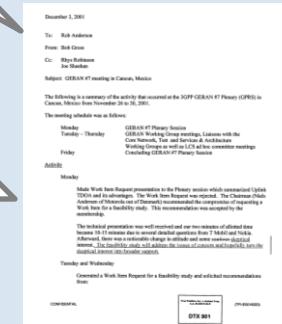
Cc: Rhys Robinson  
Joe Sheehan

Subject: GERAN #7 meeting in Cancun, Mexico

DTX 901 at 1

Significant to note the importance with which acceptance of U-TDOA into the GERAN specs depends on it being a "Multi-vendor" system. This means that we may need to cooperatively share the concepts and system designs but license the higher-value IPRs, as required to allow other vendors to produce U-TDOA systems. One strategy may be to share the concepts required to produce moderately accurate systems, but retain the high-value algorithms that allow for higher accuracy.

DTX 901 at 2



DTX 901

# TruePosition Needed Andrew's Support To Standardize UTDOA On The SDCCH

Case 1:05-cv-00747-SLR Document 371-2 Filed 03/14/2008 Page 10 of 21

**From:** Robinson, Rhys <rrobinson@trueposition,>  
**Sent:** Thursday, January 9, 2003 3:12 PM  
**To:** Leihy, Patrick <pleihy@trueposition, inc..com>; Sheehan, Joe <jsheehan@trueposition, inc..com>  
**Subject:** RE: Vendor Position on J-036 Interim Position

Pat, Joe,  
Oskar Magnusson from Grayson Wireless sent the below email unsolicited to Matt Ward asking about standards in general. He is a long-time friend of Bob Gross and contacted him last week about the CRs that we will discuss next week (he received them from AWS within hours of our sending them to Bernard Guarino).

Situation is that **it will help our cause in getting U-TDOA standardized if we report that we are collaborating with Grayson (Because then the major infrastructure vendors will believe that U-TDOA is NOT a proprietary solution)**. Also, while Allen Telecom (and Grayson) is NOT a 3GPP members, Grayson likely will attend the 3GPP meetings as a delegate of AWS – unquestionably the major vendors will ask this guy whether we are working with Grayson.

**Action:** As a company, we need to decide whether and how to cooperate with this guy.

**My recommendation** is that we cooperate only to the extent that the "open information" dictates of the 3GPP require, but no more. However, you guys may know more information about the happenings at Cingular, AWS and T-Mobile that might suggest a greater degree of cooperation.

We can discuss this further at this afternoon's standards meeting.

Thanks,

-Rhys

DTX 224 at 1



DTX 224

# TruePosition Needed Andrew's Support To Standardize UTDOA On The SDCCH

Case 1:05-cv-00747-SLR Document 371-2 Filed 03/14/2008 Page 11 of 21

**From:** Donaghy, Kevin <kdonaghy@trueposition,>  
**Sent:** Monday, November 11, 2002 8:55 AM  
**To:** Sheehan, Joe <jsheehan@trueposition, inc..com>  
**Cc:** Beckley, Fred <fbeckley@trueposition, inc..com>  
**Subject:** RE: Grayson Agreement

Joe,

While having them involved in no way guarantees success, it does have the following benefits:

1. Reduces/eliminates the perception that U-TDOA is a proprietary technology.
2. Adds additional resources to the U-TDOA standardization effort
3. Grayson will (hopefully) leverage additional carrier support and participation

I do not believe our participation/leadership will differentiate TP unless we have specific items that we can reasonably expect to include in the specs differentiating TP. Do you have any such items/plans?

I do not believe that Grayson is the real threat here. In my opinion it is the infrastructure suppliers. I believe that they are going to continue to block standardization and our entry in to the global market. Regardless of how they handle Cingular and AWS, they are not going to cede the global market to TP quickly or easily.

Kevin

-----Original Message-----

**From:** Sheehan, Joe  
**Sent:** Friday, November 08, 2002 7:35 PM  
**To:** Beckley, Fred; Donaghy, Kevin  
**Subject:** RE: Grayson Agreement

Good idea but I think we should consider both sides. Can our participation/leadership with U-TDOA in 3GPP be used to differentiate us versus Grayson? Does having Grayson participate help gain support/approval? I'm not sure having them involved helps us. What do you think?

- Joe

DTX 45 at 1

From: Donaghy, Kevin <kdonaghy@trueposition,>  
Subject: RE: Grayson Agreement  
To: Sheehan, Joe <jsheehan@trueposition, inc..com>  
Cc: Beckley, Fred <fbeckley@trueposition, inc..com>  
Subject: RE: Grayson Agreement

Joe,

While having them involved in no way guarantees success, it does have the following benefits:

1. Reduces/eliminates the perception that U-TDOA is a proprietary technology.

2. Adds additional resources to the U-TDOA standardization effort

3. Grayson will (hopefully) leverage additional carrier support and participation

I do not believe our participation/leadership will differentiate TP unless we have specific items that we can reasonably expect to include in the specs differentiating TP. Do you have any such items/plans?

I do not believe that Grayson is the real threat here. In my opinion it is the infrastructure suppliers. I believe that they are going to continue to block standardization and our entry in to the global market. Regardless of how they handle Cingular and AWS, they are not going to cede the global market to TP quickly or easily.

Kevin

-----Original Message-----

From: Sheehan, Joe <jsheehan@trueposition, inc..com>  
Sent: Friday, November 08, 2002 7:35 PM  
To: Beckley, Fred <fbeckley@trueposition, inc..com>  
Subject: RE: Grayson Agreement

Good idea but I think we should consider both sides. Can our participation/leadership with U-TDOA in 3GPP be used to differentiate us versus Grayson? Does having Grayson participate help gain support/approval? I'm not sure having them involved helps us. What do you think?

- Joe

-----Original Message-----

From: Beckley, Fred <fbeckley@trueposition, inc..com>  
Sent: Friday, November 08, 2002 8:55 AM  
To: Sheehan, Joe <jsheehan@trueposition, inc..com>  
Subject: RE: Grayson Agreement

Kevin, sounds like a good idea. We haven't talked the this to them, but, if we go in for an initial discussion, I'd like to have them involved. I think it would help gain support/approval.

-----Original Message-----

From: Sheehan, Joe <jsheehan@trueposition, inc..com>  
Sent: Friday, November 15, 2002 4:11 PM  
To: Beckley, Fred <fbeckley@trueposition, inc..com>  
Subject: RE: Grayson Agreement

DTX 45

# The Industry Worked On UTDOA With TruePosition “To Create A Solution That We All Benefit From”

## 6.3 PROJECT GROUND RULES

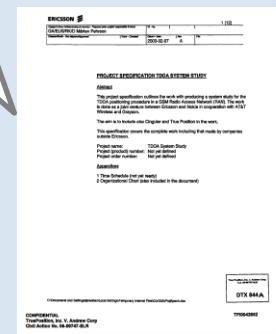
In order to focus on the result and to simplify the teamwork we have agreed on the following ground rules for the system study project. That means that we have all agreed to live by these rules and honor them.

\* \* \*

### 7) No lawyers.

**We understand that we all come from different companies that to some extent are competitors and to some extent are customers and suppliers. We all work with the understanding that what we do here is to create a solution that we all benefit from. We respect that in some cases we do not have to know all details that might be sensitive for other companies to provide. We respect each other's positions in this regard.**

DTX 844A at 10-11



DTX 844A

# Standardization Meetings For U-TDOA (GSM and GPRS)

Case 1:05-cv-00747-SLR Document 371-2 Filed 03/14/2008 Page 13 of 21

TP works alone

Andrew joins TP

3GPP approves no changes for UTDOA

Joint Venture  
*“Major changes to U-TDOA positioning”*  
*“We all benefit”*

3GPP approves changes adding UTDOA to standard

August 2001  
Finland

June 2002  
Finland

April 2003  
Germany

February 2004  
Iceland

November 2004  
South Africa

February 2002  
Italy

November 2002  
France

August 2003  
New York

June 2004  
Spain

2001

2005

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

November 2001  
Mexico

August 2002  
Los Angeles

June 2003  
Fort Lauderdale

April 2004  
Mexico

August 2004  
Canada

April 2002  
Seattle

February 2003  
San Antonio

November 2003  
Hungary

TP's promise:  
*“A license will be made available”*

Meeting #	Date	Exhibit #	ETSI Doc. ID	Subject	Sponsors
14	7-11 April 2003	414	GP-031064	U-TDOA	Andrew, TruePosition and Others
14	7-11 April 2003	414	GP-031032	U-TDOA	Andrew, TruePosition and Others
14	7-11 April 2003	414	GP-031031	U-TDOA	Andrew, TruePosition and Others
14	7-11 April 2003	414	GP-030987	U-TDOA	Andrew, TruePosition and Others
14	7-11 April 2003	414	GP-030656	U-TDOA	Andrew, TruePosition and Others
14	7-11 April 2003	414	GP-030571	U-TDOA	Andrew, TruePosition and Others
14	7-11 April 2003	414	GP-030570	U-TDOA	Andrew, TruePosition and Others
14bis	19-23 May 2003	415	G2-030411	U-TDOA	Andrew, TruePosition and Others
14bis	19-23 May 2003	415	G2-030281	U-TDOA	Andrew, TruePosition and Others
14bis	19-23 May 2003	415	G2-030282	U-TDOA	Andrew, TruePosition and Others
14bis	19-23 May 2003	415	G2-030413	U-TDOA	Andrew, TruePosition and Others
15	23-27 June 2003	416	GP-031657	U-TDOA	Andrew, TruePosition and Others
15	23-27 June 2003	416	G2-031183	U-TDOA	Andrew, TruePosition and Others
15	23-27 June 2003	416	G2-031076	U-TDOA	Andrew, TruePosition and Others
16	25-29 August 2003	417	GP-03XXXX	U-TDOA	Andrew, TruePosition and Others
16	25-29 August 2003	417	GP-031956	U-TDOA	Andrew, TruePosition
16bis	6-10 October 2003	418	G2-030472	U-TDOA	Andrew, TruePosition and Others
16bis	6-10 October 2003	418	G2-030545	U-TDOA	Andrew, TruePosition and Others
16bis	6-10 October 2003	418	G2-030552	U-TDOA	Andrew, TruePosition and Others
16bis	6-10 October 2003	418	G2-030560	U-TDOA	Andrew, TruePosition and Others
16bis	6-10 October 2003	418	G2-030562	U-TDOA	Andrew, TruePosition and Others
17	17-21 November 2003	419	G2-032501	U-TDOA	Andrew, TruePosition
17	17-21 November 2003	419	G2-032502	U-TDOA	Andrew, TruePosition and Others
17bis	12-16 January 2004	420	G2-040055	U-TDOA	Andrew, TruePosition and Others
17bis	12-16 January 2004	420	G2-040056	U-TDOA	Andrew, TruePosition and Others
18	9-13 February 2004	442	S3-040116	U-TDOA	Andrew, TruePosition and Others
18	9-13 February 2004	421	GP-040XXX	U-TDOA	Andrew, TruePosition and Others
18	9-13 February 2004	421	GP-040142	U-TDOA	Andrew, TruePosition and Others
18	9-13 February 2004	421	GP-040144	U-TDOA	Andrew, TruePosition and Others
18	9-13 February 2004	421	GP-040145	U-TDOA	Andrew, TruePosition and Others
18	9-13 February 2004	421	GP-040146	U-TDOA	Andrew, TruePosition and Others
18bis	22-26 March 2004	422	G2-040187	U-TDOA	Andrew, TruePosition and Others
19	19-23 April 2004	423	G2-040634	U-TDOA	Andrew, TruePosition and Others
19	19-23 April 2004	423	GP-040635	U-TDOA	Andrew, TruePosition and Others
19	19-23 April 2004	423	GP-040636	U-TDOA	Andrew, TruePosition and Others
20	21-25 June 2004	425	GP-041273	U-TDOA	Andrew, TruePosition and Others
20	21-25 June 2004	425	GP-041274	U-TDOA	Andrew, TruePosition and Others
20	21-25 June 2004	425	GP-041275	U-TDOA	Andrew, TruePosition and Others
21	23-27 August 2004	426	GP-042140	U-TDOA	Andrew, TruePosition and Others
21	23-27 August 2004	426	GP-041751	U-TDOA	Andrew, TruePosition and Others
21	23-27 August 2004	426	GP-041752	U-TDOA	Andrew, TruePosition and Others
21bis	4-8 October 2004	427	G2-040590	U-TDOA	Andrew, TruePosition and Others
22	8-12 November 2004	428	GP-042572	U-TDOA	Andrew, TruePosition and Others
22	8-12 November 2004	428	GP-042701	U-TDOA	Andrew, TruePosition and Others
22	8-12 November 2004	428	GP-042330	U-TDOA	Andrew, TruePosition and Others
22	8-12 November 2004	428	GP-042332	U-TDOA	Andrew, TruePosition and Others

# Andrew And TruePosition Worked Together To Standardize UTDOA Using The SDCCH

Case 1:05-cv-00747-SLR Document 371-2 Filed 03/14/2008 Page 15 of 21

Q. And the way that it worked between our two companies, Andrew and TruePosition, is, we were exchanging ideas and comments and strategy prior to the meetings and at the meetings; right?

A. Yes.

\* \* \* Joe Sheehan, Tr. 293:1-5

Q. And what they were trying to do together collaboratively was get the standards body to adopt U-TDOA and GSM and GPRS; right?

A. Yes.

\* \* \* *Id.*, Tr. 293:17-20

Q. And this joint effort of Andrew and TruePosition was, in fact, successful in November 2004. U-TDOA was accepted by the entire industry worldwide for GSM and GPRS; right?

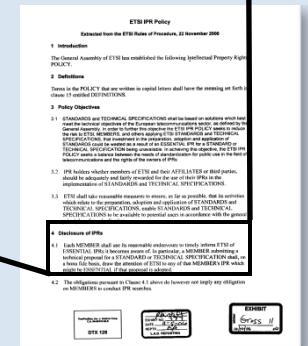
A. Yes.

*Id.*, Tr. 294:7-10

## 4 Disclosure of IPRs

4.1 Each MEMBER shall use its reasonable endeavours to timely inform ETSI of ESSENTIAL IPRs it becomes aware of. In particular, a MEMBER submitting a technical proposal for a STANDARD or TECHNICAL SPECIFICATION shall, on a bona fide basis, draw the attention of ETSI to any of that MEMBER's IPR which might be ESSENTIAL if that proposal is adopted.

DTX 128



ETSI IPR Policy,  
DTX 128

# ETSI's IPR Policy Expressly Covers Options

## ETSI IPR Policy

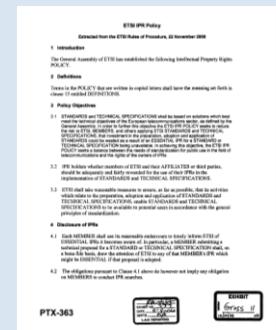
\* \* \*

11 "STANDARD" shall mean any standard adopted by ETSI **including options therein** or amended versions and shall include European Standards (ENs) (telecommunications series), ETSI Standards (ESs), Common Technical Regulations (CTRs) which are taken from ENs (telecommunications series) and including drafts of any of the foregoing, and documents made under the previous nomenclature, including ETSs, I-ETSS, parts of NETs and TBRs, the technical specifications of which are available to all MEMBERS, but not including any standards, or parts thereof, not made by ETSI.

\* \* \*

12 "TECHNICAL SPECIFICATION" shall mean any Technical Specification (TS) adopted by ETSI **including options therein** or amended version including drafts, the Technical Specifications of which are available to all MEMBERS, but not including any technical specifications, or parts thereof, not made by ETSI.

PTX 363 at 6-7

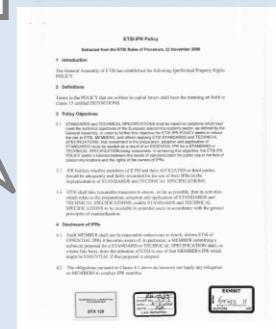


ETSI IPR Policy  
PTX 363

6.1 When an **ESSENTIAL IPR** relating to a particular **STANDARD** or **TECHNICAL SPECIFICATION** is brought to the attention of ETSI, the Director-General of ETSI shall immediately request the owner to give within three months an undertaking in writing that it is prepared to grant **irrevocable licences on fair, reasonable and non-discriminatory terms and conditions under such IPR** to at least the following extent:

- **MANUFACTURE**, including the right to make or have made customized components and sub-systems to the licensee's own design for use in **MANUFACTURE**;
- sell, lease, or otherwise dispose of **EQUIPMENT** so **MANUFACTURED**;
- repair, use, or operate **EQUIPMENT**; and
- use **METHODS**.

The above undertaking may be made subject to the condition that those who seek licences agree to reciprocate.



## 8 Non-availability of Licences

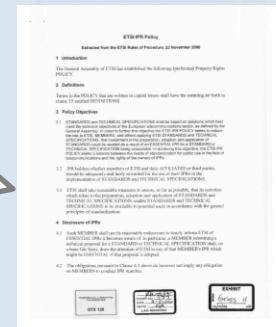
### 8.1 MEMBERS' refusal to license

8.1.1 Where a MEMBER notifies ETSI that it is not prepared to license an IPR in respect of a STANDARD or TECHNICAL SPECIFICATION, the General Assembly shall review the requirement for that STANDARD or TECHNICAL SPECIFICATION and satisfy itself that a viable alternative technology is available for the STANDARD or TECHNICAL SPECIFICATION which:

- is not blocked by that IPR; and
- satisfies ETSI's requirements.

8.1.2 Where, in the opinion of the General Assembly, no such viable alternative technology exists, work on the STANDARD or TECHNICAL SPECIFICATION shall cease, and the Director-General of ETSI shall request that MEMBER to reconsider its position. If the MEMBER decides not to withdraw its refusal to license the IPR, it shall inform the Director-General of ETSI of its decision and provide a written explanation of its reasons for refusing to license that IPR, within three months of its receipt of the Director-General's request.

The Director-General shall then send the MEMBER's explanation together with relevant extracts from the minutes of the General Assembly to the ETSI Counsellors for their consideration.



## TruePosition's Position

Q. I know you have a view, sir, but I'm entitled to an answer to my questions with a yes or a no and I'm going to ask you a yes or no question, which is, the standard here says you can do U-TDOA using the SDCCH.

In your view if you do U-TDOA using the SDCCL, you can't do that without using your '144 patent? Yes or no?

A. Yes.

Tr. Joe Sheehan, Tr. 297:17-24

# TruePosition Believes The '144 Patent Is Essential To Practice Part Of The ETSI GSM Standard

Case 1:05-cv-00747-SLR Document 371-2 Filed 03/14/2008 Page 21 of 21

## TruePosition's Position

**Q. Is the '144 patent essential to locating a cellular telephone using time difference of arrival on the control channel?**

**A. Yes, it is, on the control channel.**

Tr. Joe Sheehan 199:23-200:1